

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	John Brownlie et al.)	Examiner: Unknown
)	
Serial No.:	10/522,513)	Art Unit: 1653
)	
Filed:	January 27, 2005)	
)	
I.A. Filing Date:	July 1, 2003)	
)	
CANINE RESPIRATORY CORONAVIRUS (CRCV))	
SPIKE PROTEIN, POLYMERASE AND)	
HEMAGGLUTININ/ESTERASE)	

**SECOND REQUEST FOR RECONSIDERATION OF DECISION ON PETITION TO
WITHDRAW HOLDING OF ABANDONMENT**

Mail Stop PCT

Attn: Office of PCT Legal Administration
Commissioner for Patents
Office of PCT Legal Administration
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

For the reasons set forth below, Petitioner respectfully requests reconsideration of the Decisions On Petition to Withdraw Holding of Abandonment dated December 1, 2006 and August 25, 2006 in the above-identified application.

As stated in MPEP 711.03(c):

"To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must (1) include a statement from the practitioner stating that the Office communication was not received by the practitioner and (2) attesting to the fact that a search of the

file jacket and docket records indicates that the Office communication was not received. (3) A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action." (Numerals 1, 2 and 3 added for emphasis).

In regard to Item (1) of the required showing set forth above, Petitioner submits that it has included a statement that the Office Action was not received by the Practitioner. In particular, Petitioner previously stated that "[a] search of the file jacket and docket record for the subject application indicates that said Notification was never received by the Attorneys of Record, Jaeckle Fleischman & Mugel, LLP (JFM)." *See* Petition, pg. 2, 1st ¶. The Decision dated December 1, 2006 indicates that Item (1) has been satisfied. *See Decision dated December 1, 2006*, pg. 2.

In regard to Item (2), Petitioner hereby states that a search was conducted of the file jacket and of JFM's docket records for the date that a response to the Notification of Defective Response ("Notice") was due (i.e., March 7, 2006). The result of said search indicates that the Notice was not received at the correspondence address of record on or before the deadline of March 7, 2006. Petitioner hereby submits that Item (2) is now satisfied.

In regard to Item (3), Petitioner has submitted herewith a true copy of JFM's docket records for the date that a response to the Notice was due (i.e., March 7, 2006). *See* Exhibit A. The docket report generated by JFM's docketing system as provided in Exhibit A shows all applications for which a response or other action was due on March 7, 2006. As can be seen in

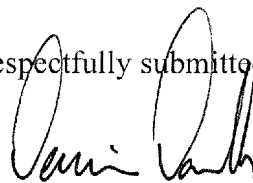
Exhibit A, the docket report does not contain the due date for a response to the Notice for the subject application. If Petitioner had received the Notice mailed on February 7, 2006 on or before the deadline of March 7, 2006, the subject application would have appeared on the docket report in Exhibit A having an entry listed under the "Actions Due" column showing a response due for the Notice with a deadline of March 7, 2006 listed under the "Due Date" column. Since a deadline to respond to the Notice does not appear on the docket report in Exhibit A, Petitioner submits that the Notice had not been received by Petitioner on or before the deadline of March 7, 2006.

In view of the above, Petitioner submits that a proper showing of Items (1), (2) and (3) has been made, thereby establishing non-receipt of the Notification of Defective Response mailed by the U.S. Patent Office on February 7, 2006 on or before the deadline of March 7, 2006. Accordingly, second reconsideration and grant of the Petition filed on June 2, 2006 is respectfully requested.

Petitioner does not believe that any fee is due at this time. However, the Commissioner is hereby authorized to charge any additional fee that may have been overlooked to Deposit Account No. 10-0223.

Date: 12/13/06

Respectfully submitted,



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Exhibit A

DocketNumber	SubCase	Country	CountryName	CaseType	ApplicationStatus	TextID	ActionType	BaseDate	Appi No.	ResponseDate	CreatedBy	Userid	DateCreated	LastUpdate	ActionDue	DueDate	Indicator	DateTaken
89190.115103		US	United States of America	PRI	Pending	38279	US-Advisory Action	18-Aug-2005	106029.819	07-Sep-2005	EAK	EAK	21-Aug-2005	08-Sep-2005	ActionDue	18-Aug-2005	Due Date	18-Aug-2005
															Advisory Action Rec'd	18-Aug-2005	Due Date	18-Aug-2005
															Response to Advisory Action	07-Sep-2005	Due Date	07-Sep-2005
															Resp due Advis Actm w/1 mo ext	07-Oct-2005	Due Date	07-Sep-2005
															Resp due Advis Actm w/2 mo ext	07-Nov-2005	Due Date	07-Sep-2005
															Resp due Advis Actm w/3 mo ext	07-Dec-2005	Final	07-Sep-2005
															US Advisory Act Follow Up Date	07-Mar-2006	Due Date	07-Sep-2005
891536.051304	1	US	United States of America	ORD	Transferred	38531	US-Assignment	07-Sep-2005	117168.050		EAK	EAK	08-Sep-2005	08-Sep-2005	ActionDue	07-Sep-2005	Due Date	07-Sep-2005
															Assignment Submitted	07-Sep-2005	Due Date	07-Sep-2005
89190.079602		US	United States of America	PRI	Pending	37509	US-Final Office Action	07-Sep-2005	102238.093	07-Nov-2005	EAK	EAK	23-Sep-2005	08-Nov-2005	Assignment Recordation rec'd?	07-Mar-2006	Due Date	08-Sep-2005
															ActionDue	07-Nov-2005	Indicator	DateTaken
															File exped respie OA per client	07-Nov-2005	Reminder	07-Nov-2005
															Resp due to final OA	07-Dec-2005	Due Date	07-Nov-2005
															Resp due to final w/1 mo ext	07-Jan-2006	Due Date	07-Nov-2005
															Resp due to final w/2 mo ext	07-Feb-2006	Due Date	07-Nov-2005
															Notice of Appeal due	07-Mar-2006	Final	07-Nov-2005
															Resp due to final w/3 mo ext	07-Mar-2006	Final	07-Nov-2005
89190.079602		US	United States of America	PRI	Pending	37509	US-Advisory Action	05-Dec-2005	102238.093	04-Jan-2006	EAK	EAK	14-Dec-2005	06-Jan-2006	ActionDue	05-Dec-2005	Due Date	05-Dec-2005
															Advisory Action Rec'd	07-Dec-2005	Due Date	05-Dec-2005
															Response to Advis Action due	07-Jan-2006	Due Date	04-Jan-2006
															Resp to Advis Actm w/1 mo ext	07-Feb-2006	Due Date	04-Jan-2006
															Resp to Advis Actm w/2 mo ext	07-Feb-2006	Due Date	04-Jan-2006
															Resp to Advis Actm w/3 mo ext	07-Mar-2006	Due Date	04-Jan-2006
91355.111803		US	United States of America	PRI	Granted	37998	US-Allowance	07-Dec-2005	10755.248		EAK	EAK	15-Dec-2005	23-May-2006	ActionDue	07-Feb-2006	Indicator	DateTaken
															Issue Fee Due in 1 Month	07-Feb-2006	Reminder	02-Jan-1900
89190.078705		US	United States of America	PRI	Pending	38755	Post Card Check	07-Feb-2006	11248.808		EAK	EAK	08-Feb-2006	24-Feb-2006	ActionDue	07-Mar-2006	Final	02-Jan-1900
															Post Card Check	07-Mar-2006	Due Date	17-Feb-2006
89190.078705		US	United States of America	PRI	Pending	38755	Rule 56 Letter	07-Feb-2006	11348.808		EAK	EAK	08-Feb-2006	08-Feb-2006	ActionDue	07-Mar-2006	Indicator	DateTaken
															Rule 56 Letter	07-Mar-2006	Due Date	02-Jan-1900
89190.097305		US	United States of America	PRI	Pending	38755	Post Card Check	07-Feb-2006	11348.770		EAK	EAK	08-Feb-2006	21-Feb-2006	ActionDue	07-Mar-2006	Indicator	DateTaken
															Post Card Check	07-Mar-2006	Due Date	15-Feb-2006
89190.097305		US	United States of America	PRI	Pending	38755	Rule 56 Letter	07-Feb-2006	11348.770		EAK	EAK	08-Feb-2006	08-Feb-2006	ActionDue	07-Mar-2006	Indicator	DateTaken
															Rule 56 Letter	07-Mar-2006	Due Date	02-Jan-1900
89943.112102		DE	Germany	PCT	Published	36040	Office Action Received?	07-Mar-2006	198.82.673.7		EAK	EAK	28-Feb-2006	06-Mar-2006	ActionDue	07-Mar-2006	Indicator	DateTaken
															Office Action Received?	07-Mar-2006	Due Date	06-Mar-2006
91128.098203	2	US	United States of America	ORD	Granted	37789	Instruct agent re issue fees	07-Mar-2006	10250.243		EAK	EAK	01-Mar-2006	06-Mar-2006	ActionDue	07-Mar-2006	Indicator	DateTaken
															Instruct agent re issue fees	07-Mar-2006	Due Date	06-Mar-2006